

<b>Notice of Allowability</b>	Application No.	Applicant(s)	
	10/644,799	HIRUNUMA ET AL.	
	Examiner	Art Unit	
	Joshua L. Pritchett	2872	

-- *The MAILING DATE of this communication appears on the cover sheet with the correspondence address--*

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to RCE filed May 22, 2006.
2.  The allowed claim(s) is/are 1,4-16 and 30.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All      b)  Some\*      c)  None      of the:
    1.  Certified copies of the priority documents have been received.
    2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application (PTO-152)
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

## **DETAILED ACTION**

This action is in response to Request for Continued Examination filed May 22, 2006 and Amendment filed April 24, 2006. Claim 1 has been amended as requested by the applicant.

### ***Response to Arguments***

Applicant's arguments, see Amendment, filed April 24, 2006, with respect to claim 1 have been fully considered and are persuasive. The rejection of claim 1 has been withdrawn. Applicant argued that the prior art fails to teach or suggest a pair of reticles that are non-coordinate geometrically with each other. The examiner agrees and the rejection has been withdrawn.

### ***Allowable Subject Matter***

Claims 1, 4-16 and 30 are allowed.

The following is an examiner's statement of reasons for allowance:

Regarding claim 1, the prior art of record fails to teach or suggest a binocular telescope with a photographing function with adjustable interpupillary distance comprising a first focusing means that focuses a pair of observation optical systems, a second focusing means that focuses the photographing optical system, an association mechanism that associates the first and second

focusing means with each other, a pair of reticles formed on each observation optical system for focusing the observation optical systems with a predetermined dioptic power during an operation of the focusing mechanisms, each of the pair of reticle elements being arranged at an in-focus position of an objective lens system of the observation optical system, a position of an ocular lens system of the observation optical system being adjustable relative to the position of the reticle element so as to adjust the dioptic power and an interpupillary distance adjuster that adjusts the distance between the optical axes of the pair of observation optical systems wherein when the optical axes of the pair of observation optical systems are made completely coincident with the interpupillary distance of the user by using the interpupillary distance adjuster so that the reticle images of the pair of reticle elements are fused, the fused reticle images are geometrically non-coordinate with each other and form a cross.

The remaining claims depend from claim 1 and are allowable for the same reasons.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

*Conclusion*

Art Unit: 2872

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joshua L. Pritchett whose telephone number is 571-272-2318. The examiner can normally be reached on Monday - Friday 7:00 - 3:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Drew A. Dunn can be reached on 571-272-2312. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JLP *[Signature]*



DREW A. DUNN  
SUPERVISORY PATENT EXAMINER